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5 ATTORNEYS FOR
Plaintiff Frank Del Carlo

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 (San Jose Division)

11 In re:) Case No. 16-52268-MEH
12 GREGORY A DEL CARLO and TRACY) CHAPTER 13
13 L. DEL CARLO,)
14 Debtors.)

15 FRANK DEL CARLO and LOUIS DEL) Adversary Proceeding
16 CARLO,) No. 16-5084
17 Plaintiffs,)

18 v.) **STATUS CONFERENCE STATEMENT**
19 GREGORY A DEL CARLO and TRACY) **FOR FRANK DEL CARLO**
20 L. DEL CARLO,)

21 Defendants.) Date: December 4, 2017
Time: 10:00 a.m.
Location:
U.S. Bankruptcy Court
Courtroom 3020
201 S. 1st St. San Jose, CA 95113
Judge: Hon. M. Elaine Hammond

24 Plaintiff FRANK DEL CARLO ("Plaintiff" or "Frank") submits the following Status
25 Conference Statement:

26 **I. Overall Case Status.**

27 On October 31, 2017 the court entered an ORDER APPROVING COMPROMISE OF
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1 CONTROVERSY (Doc#113)(main case) and an Order Modifying Chapter 13 Plan (Doc#114)(main
2 case) which, separately and/or together, resolved, on certain conditions, this Adversary Proceeding.
3 No appeals relative to these two orders have been filed.

4 **II. Compromise-Potential Judgment.**

5 The Compromise Agreement (Doc#106)(main case) provides, in pertinent part, that in full
6 and final satisfaction of the monetary aspects of a State Court Action, a State Court Judgment, an
7 Appeal of the State Court Judgment, Bankruptcy Case, Confirmation Appeal, Frank Claim, and this
8 Adversary Proceeding, Defendants Gregory A. Del Carlo (“Greg”) and Tracy L. Del Carlo (“Tracy”)
9 shall pay Frank the sum of \$200,000.00 (“Settlement Amount”).

10 In addition, as part of the Compromise Agreement Greg and Tracy shall provide Frank, as
11 collateral, with a Deed of Trust against 2007 Gypsy Ave., San Martin, CA 95046 (“Property”), Greg
12 and Tracy shall not, prior to payment of the Settlement Amount or Frank recording the Deed of Trust
13 further encumber the Property, upon approval of the Compromise Agreement Greg and Tracy will
14 dismiss the State Court Appeal and Frank will dismiss the Confirmation Appeal, and upon payment
15 of the Settlement Amount Frank will withdraw the Frank Claim and return the Deed of Trust.

16 Pursuant to the Compromise Agreement the Settlement Amount shall be considered non-
17 dischargeable pursuant to 11 U.S.C. 523 and if the Settlement Amount is not paid as agreed a
18 judgment of non-dischargeability may be entered in the Adversary Proceeding in favor of Frank and
19 against Greg and Tracy for \$500,000.

20 **III. Status of Compliance with Compromise Agreement.**

21 Frank has filed a motion to withdraw the Confirmation Appeal. Greg and Tracy should have
22 filed and should immediately file a motion to withdraw the State Court Appeal. Frank has provided
23 Greg and Tracy’s counsel with a proposed Deed of Trust and a proposed Judgment Pursuant To
24 Compromise so these administrative matters are ready, as necessary, and awaits approval.

25 **IV. Recommendation.**

26 Frank recommends the court schedule a Status Conference, or equivalent hearing, for June or
27 July 2018 at which time Greg and Tracy will have, in accordance with the Amended Plan and
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1 Compromise Agreement, paid Frank and this case will have been dismissed and Frank's Claim
2 withdrawn or Greg and Tracy will have failed to make the required payments and Frank will have
3 submitted the Judgment Pursuant to Compromise to the court for entry.

4 Frank requests the court issue an order consistent with this recommendation prior to
5 December 4, 2017 to expedite the matter and defer any hearing until 2018.

6 Dated: November 27, 2017

CAMPEAU GOODSELL SMITH

By: /s/ William J. Healy

William J. Healy